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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,766	10/26/2001	Mark F. Krol	SP01-038	2882

20874 7590 05/21/2004  
WALL MARJAMA & BILINSKI  
101 SOUTH SALINA STREET  
SUITE 400  
SYRACUSE, NY 13202

EXAMINER

LEE, JOHN D

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/061,766

Applicant(s)

KROL ET AL.

Examiner

John D. Lee

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-58 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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This Office action is responsive to applicant's amendment submitted on March 29, 2004. The previously identified 35 U.S.C. § 112, second paragraph, problems have now been obviated, as have the previously identified claim objections. Regarding the previously applied 35 U.S.C. § 103(a) rejection of claims 43 and 44 based upon U.S. Patent 6,262,815 to Segawa, applicant has amended claim 43 to include a limitation that the Examiner has already stated is patentably distinguishable over Segawa (see page 3 of applicant's response). Claim 44 is dependent upon claim 43. The 35 U.S.C. § 103(a) rejection is therefore withdrawn.

It is noted that applicant's amendment is dated and signed March 31, 2004 (see page 4 of applicant's response). The Certificate Of Mailing, however, is dated and signed March 29, 2004. Since the Examiner does not understand how the response could be mailed prior to its signing, appropriate explanation is requested in response to this letter.

Claims 1-58 are allowed. The reasons for allowability are clearly stated in the previous Office action (paper number 1203, mailed on January 2, 2004).

Claims 20, 34-39, 44 are objected to because of the following informalities: in claim 20, line 2, the word "the" should be deleted; in claims 34-36, line 1 of each, "34" should actually be "33"; in claims 37 and 38, line 1 of each, "37" should actually be "36"; in claim 39, line 2, the word "the" should be deleted; and in claim 44, line 1, the word "each" should be "the". Appropriate correction is required. Note that most of these claim objections were previously identified and, in some cases, corrected. Applicant's latest amendment reversed some of the previously made corrections. The undersigned

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Examiner contacted *Wall, Marjama & Bilinski* on May 12, 2004, in order to correct these problems by Examiner's amendment, but the Examiner's call was never returned.

This application is in condition for allowance except for the following formal matters: the claim objections noted above.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO (2) MONTHS** from the mailing date of this letter.

Any inquiry concerning the merits of this communication should be directed to Examiner John D. Lee at telephone number (571) 272-2351. The Examiner's normal work schedule is Tuesday through Friday, 6:30 AM to 5:00 PM. Any inquiry of a general or clerical nature (i.e. a request for a missing form or paper, etc.) should be directed to the Technology Center 2800 receptionist at telephone number (571) 272-1562, to the technical support staff supervisor (Team 8) at telephone number (571) 272-1564, or to the Technology Center 2800 Customer Service Office at telephone number (571) 272-1626.

  
John D. Lee  
Primary Patent Examiner  
Group Art Unit 2874